

ADVISORY NOTICE IN REFERENCE TO LOUISIANA SMOKE FREE AIR ACT

The Office of Charitable Gaming has had a large number of inquiries as to the applicability of the Louisiana Smoke Free Air Act to charitable gaming operations and commercial and non-commercial halls. The Office is issuing this advisory notice, with the assistance of the Attorney General's Office, to aid organizations in their interpretation of the Louisiana Smoke Free Air Act.

This memorandum is only an Advisory Notice and is NOT an official opinion of this Office and may not be relied on as such.

The Louisiana Smoke Free Air Act, La R.S. 40:1300.256, states, in part:

A. Except as permitted by Subsection B of this Section, no person shall:

- (1) Smoke in any public building.
- (2) Smoke in any school.
- (3) Smoke in any public place and in any enclosed area within a place of employment.
- (4) As an employer, knowingly permit smoking in any enclosed area within a place of employment.

B. **Nothing in this Part shall prohibit smoking in any of the following places:**

(8) **Designated smoking areas in which gaming operations are permitted to occur** upon a riverboat, at the official gaming establishment, at a facility licensed for the operation of electronic video draw poker devices, at an eligible facility licensed for the operation of slot machines, **by a licensed charitable organization**, or at a pari-mutuel wagering facility or off-track wagering facility which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4 [\[FN1\]](#) and Chapters 4, 5, 6, and 7 of Title 27 [\[FN2\]](#) of the Louisiana Revised Statutes of 1950, or any other gaming operations authorized by law, **except that smoking shall be prohibited in all restaurants, including snack bars and any other type of eating area whether or not such area is separated from the gaming area, that are located within the facilities where gaming operations are conducted regardless of any type of license issued relevant to the operation of the restaurant.**

- C. An individual, person, entity, or business subject to the smoking prohibitions of this Section shall not discriminate or retaliate in any manner against a person for making a complaint regarding a violation of this Section or for furnishing information concerning a violation to an enforcement authority.
- D. Nothing in this Part shall be construed to restrict the power of any parish, city, town, or village to adopt and enforce additional local laws, ordinances, or regulations that comply with at least the minimum applicable standards to establish smokefree public places as set forth in this Part.

Restaurant is defined in R.S. 40:1300.253 as **an eating establishment, including but not limited to, coffee shops, cafeterias, sandwich stands, and school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar located within a restaurant.**

The general rule is that smoking is prohibited in public places; however the Act allows smoking in the "designated smoking areas" of facilities used for the conducting of charitable gaming by licensed charitable organizations. This would include both commercial and non-commercial halls. The limitation to this exception is that smoking may not be conducted in restaurants, which include snack bars, food preparation areas and other eating areas.

It should be noted that nothing in the Act requires that the establishment allow smoking in its facility. However if smoking is to be allowed it would seem necessary that the establishment designate a smoking area which could not include the snack bar/food preparation or eating area(s).

Typically in commercial and non-commercial halls, food may be consumed throughout the facility. In order to accommodate non-smokers and patrons who do not care to consume food in a smoking area, a "non-smoking" area could extend some distance away from the snack bar/food preparation/eating area at the discretion of the establishment. Or a small, isolated smoking area could be established at a distance away from the snack bar/food preparation/eating area. Nothing in the Act would appear to prohibit patrons from eating in the designated smoking area if that is their preference.

Please feel free to call the Office of Charitable Gaming at 225-925-1835 if you have any questions concerning this matter.